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**IN THE  
COURT OF APPEALS OF INDIANA**

TIFFANY F. WILSON,

Appellant-Respondent,

VS.

GREENE COUNTY DIVISION OF  
CHILD SERVICES,

Appellee-Petitioner.

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No. 28A01-0605-JV-193

APPEAL FROM THE GREENE CIRCUIT COURT  
The Honorable David K. Johnson, Judge  
Cause Nos. 28C01-0512-JT-26, 28C01-0512-JT-27, 28C01-0512-JT-28

**September 19, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**CRONE, Judge**

## **Case Summary**

Tiffany F. Wilson (“Mother”) appeals the involuntary termination of her parental rights to her children, C.M., D.M., and B.M. We affirm.

## **Issue**

We consolidate and restate Mother’s issues as whether the termination orders are clearly erroneous.

## **Facts and Procedural History**

The facts most favorable to the termination orders indicate that three children were born to Mother and William Moody: C.M. in February 1997, D.M. in January 1999, and B.M. in August 2001. On August 19, 2004, Greene County Division of Child Services (“DCS”) family case manager Heather Perkins and a Greene County prosecutor’s office investigator went to Mother and Moody’s trailer to investigate a report of poor living conditions and possible methamphetamine use. Mother answered the door and let them in. Perkins saw a mattress on the floor of the living room, as well as dirty clothes and moldy food. In the filthy kitchen, Perkins saw dirty dishes, empty beer cans, four boxes of Sudafed, and several batteries. Perkins contacted the state police and gave Mother an opportunity to clean up the home. Several hours later, Perkins returned to the home with several state troopers and a drug dog. Mother consented to a search of the home. She initially denied using drugs but later admitted that she had smoked marijuana the night before and had smoked methamphetamine several days earlier. Police found methamphetamine, marijuana, pills, and methamphetamine precursors in the home, as well as methamphetamine

paraphernalia in Mother's purse. Mother was arrested, and all three children were eventually placed with her father and his wife.

On August 23, 2004, the DCS filed CHINS petitions as to all three children. Mother bonded out of jail two days later. After an initial hearing on December 2, 2004, the trial court adjudged the children CHINS. On January 25, 2005, the trial court entered dispositional orders requiring Mother to participate in individual therapy and follow the therapist's recommendations, complete aftercare treatment, attend and fully participate in group therapy, participate in and complete parenting education classes, participate in and complete a psychological evaluation and follow the psychologist's recommendations, participate in weekly supervised visitation with the children, participate in weekly case management services, maintain employment, locate and maintain appropriate housing, and submit to periodic drug screens. Between January 13, 2005, and March 2, 2005, on which date she was incarcerated as a result of the criminal proceedings against her, Mother did not participate in any services. Mother was released from jail on April 10, 2005.

Mother completed the aftercare treatment and parenting classes in July 2005. Mother never completed a psychological evaluation and did not participate in services from August through December 2005. On December 13, 2005, the DCS filed petitions to terminate Mother's parental rights as to all three children. After a hearing, the trial court issued orders terminating Mother's parental rights on March 29, 2006.<sup>1</sup> Additional facts will be provided as necessary.

### **Discussion and Decision**

Mother challenges the orders terminating her parental rights. In addressing such challenges, this Court has stated,

To support a petition to terminate parental rights, the [DCS] must show, among other things, that there is a reasonable probability:

- (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
- (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child[.]

Ind. Code § 31-35-2-4(b)(2)(B). The [DCS] must also show that termination is in the best interests of the child. Ind. Code § 31-35-2-4(b)(2)(C). The [DCS's] burden of proof in this respect is met by clear and convincing evidence. Where, as here, the trial court enters findings and conclusions on its own motion, the specific findings control only as to the issues they cover, and the general judgment standard controls as to the issues upon which the court has not made findings. The specific findings will not be set aside unless they are clearly erroneous, and we will affirm the general judgment on any legal theory supported by the evidence. We neither reweigh the evidence nor judge the credibility of the witnesses, and we consider only the evidence that supports the judgment together with all reasonable inferences to be drawn therefrom. A finding is clearly erroneous when there are no facts or inferences to be drawn therefrom which support it. A judgment is clearly erroneous when it is unsupported by the findings and conclusions entered on those findings. On appeal, we will reverse a termination of parental rights only upon a showing of clear error which leaves us with a definite and firm conviction that a mistake has been made.

In judging a parent's fitness, the trial court should examine the parent's fitness at the time of the termination hearing, as well as the parent's habitual patterns of conduct, to determine whether there is a substantial probability of future neglect or deprivation of the child. A court may properly consider evidence of a parent's prior criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment. Moreover, a trial court can reasonably consider the services offered by the [DCS] to the parent and the parent's response to those services. Finally, we must be ever mindful that parental rights, while constitutionally protected, are not absolute and must be subordinated to the best interests of the child when evaluating the circumstances surrounding termination. Indeed, a

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<sup>1</sup> The trial court also terminated Moody's parental rights.

trial court need not wait until a child is irreversibly harmed such that his physical, mental, and social development is permanently impaired before terminating the parent-child relationship.

*McBride v. Monroe County Office of Family & Children*, 798 N.E.2d 185, 198-99 (Ind. Ct. App. 2003) (some alterations added) (quotation marks and some citations omitted). Here, the trial court entered specific findings only as to the age and gender of the children and their biological parents; consequently, we may affirm on any legal theory supported by the evidence. *See id.* at 198.<sup>2</sup>

Mother first disputes the trial court's determination that there is a reasonable probability that the conditions that resulted in the children's removal will not be remedied. Although Mother initially participated in some services after she was arrested, she stopped participating altogether for nearly two months before she was incarcerated in March 2005. She resumed participation in April, only to drop out once again in August. At that time, Mother still had not obtained suitable housing for herself or the children. Mother's lack of participation led her individual therapy counselor to close her file, which in turn led the therapy center to refuse to administer the court-ordered drug screens, which in turn led to the termination of visitation. Mother never completed a psychological evaluation, and her supervised visitation with the children was sporadic.<sup>3</sup> Mother blames many of her woes on a lack of clear direction and communication from service providers and DCS caseworkers, but the trial court heard ample testimony that Mother knew and understood what was required of

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<sup>2</sup> Although specific factual findings are not required in termination proceedings, they greatly facilitate our review of such fact- and credibility-sensitive cases.

<sup>3</sup> Mother's father testified that she would miss visits even when he called her in advance and came to her residence with the children to pick her up. Tr. at 58-59.

her and the consequences of failing to fulfill those requirements. Given Mother's demonstrated lack of follow-through in addressing the issues that resulted in the children's removal, we agree with the trial court that there is a reasonable probability that the conditions that resulted in the children's removal will not be remedied.

Next, Mother contends that the trial court erred in concluding that termination of the parent-child relationship will be in the children's best interests. We disagree. C.M. and D.M. do not want to live with Mother. When she was placed with her grandfather, C.M. had problems with bedwetting, nightmares, and academics. Her behavior would regress before visitations with Mother, and eventually she no longer wanted to talk with Mother. C.M. expressed concern about any future children that Mother might have. D.M. also experienced nightmares and was aggressive toward her sisters. She told her grandfather that Mother and Moody would spank her with a belt "until her butt would bleed[.]" Tr. at 52. When B.M. was placed with her grandfather, she primarily drank milk from a sippy cup and was not used to eating solid food. She also rolled up a piece of paper, stuck it in her mouth, and stated that "she was making a special cigarette." *Id.* at 82. The children told the CASA that when they lived with Mother they did not have underwear and had to sleep on the floor, that the home was dirty, and that C.M. had to prepare food for all three siblings. According to the CASA, the children's health and grades have improved dramatically since they were removed from Mother's home. A therapist opined, and DCS case manager Perkins agreed, that the children would not need therapy anymore if Mother were no longer involved in their lives. In light of this evidence, as well as the evidence regarding Mother's lack of follow-through in

improving her fitness as a parent, we agree with the trial court that termination of the parent-child relationship will be in the children's best interests. Therefore, we affirm.

Affirmed.

BAKER, J., and VAIDIK, J., concur.